

September 2, 2008

MEMORANDUM TO: David M. Spooner
Assistant Secretary
for Import Administration

FROM: Stephen J. Claeys
Deputy Assistant Secretary
for Import Administration

SUBJECT: Certain Frozen Warmwater Shrimp from the Socialist Republic of
Vietnam: Issues and Decision Memorandum for the Final Results
of the Second Antidumping Administrative Review

SUMMARY

We have analyzed the case and rebuttal briefs of interested parties in the second administrative review of the antidumping duty order on certain frozen warmwater shrimp from the Socialist Republic of Vietnam ("Vietnam"). As a result of our analysis, we have made changes to Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Preliminary Results, Preliminary Partial Rescission and Final Partial Rescission of the Second Administrative Review, 73 FR 12127 (March 6, 2008) ("Preliminary Results").

We recommend that you approve the positions described in the "Discussion of the Issues" section of this Issues and Decision Memorandum. Below is the complete list of the issues in this antidumping duty administrative and new shipper review for which we received comments and rebuttal comments from interested parties:

DISCUSSION OF THE ISSUES

Comment 1: Surrogate Country
Comment 2: Raw Shrimp Surrogate Value
Comment 3: Surrogate Financial Ratios
Comment 4: Wage Rate Calculation
Comment 5: Treatment of Sales with Negative Margins ("Zeroing")
Comment 6: Separate Rate ("SR") Calculation Methodology
Comment 7: Separate-Rate Status for Additional Trade Names
Comment 8: Minh Phu Group's Importer-Specific Assessment Clerical Error

BACKGROUND:

The merchandise covered by the order is certain frozen warmwater shrimp as described in the “Scope of the Order” section of the Preliminary Results. The period of review (“POR”) is February 1, 2006, through January 31, 2007. In accordance with section 351.309(c)(ii) of the Department of Commerce’s (“the Department”) regulations, we invited parties to comment on our Preliminary Results.

On May 7, 2008, the mandatory respondents¹, Fish-One², Petitioner³, and other separate-rate respondents⁴ (“SR Respondents”) filed case briefs. On May 14, 2008, the mandatory respondents, Fish-One, Petitioner, the SR Respondents, and Grobest filed rebuttal briefs. On May 21, 2008, Petitioner withdrew its hearing request, leaving no public hearing request on the record.

¹ The two mandatory respondents are: Minh Phu Group {comprised of Minh Phat Seafood Co., Ltd., Minh Phat Seafood., Minh Phu Seafood Export Import Corporation (and affiliates Minh Qui Seafood Co., Ltd. and Minh Phat Seafood Co., Ltd.), Minh Phu Seafood Corp., Minh Phu Seafood Corporation, Minh Qui Seafood, Minh Qui Seafood Co., Ltd.} (collectively, Minh Phu), and Camau Frozen Seafood Processing Import Export Corporation, or Camau Seafood Factory No. 4 (“Camimex”).

² Vietnam Fish-One Co., Ltd. (Vietnam Fish-One) aka Viet Hai Seafoods Company Ltd. (“Vietnam Fish One Co. Ltd.”) (collectively, “Fish-One”).

³ Ad Hoc Shrimp Trade Action Committee.

⁴ The SR Respondents are: Cafatex Fishery Joint Stock Corporation (“Cafatex Corp.”) aka Cantho Animal Fisheries Product Processing Export Enterprise (Cafatex) (collectively, Cafatex), Can Tho Agricultural and Animal Product Import Export Company (“Cataco”), Danang Seaproducts Import Export Corporation and its wholly owned affiliated Tho Quang Seafood Processing and Export Company (“Seaprodex Danang”), Minh Hai Export Frozen Seafood Processing Joint Stock Company aka Minh Hai Export Frozen Seafood Processing Joint Stock Company (“Minh Hai Jostoco”), Sao Ta Foods Joint Stock Company (“Fimex VN”), Soc Trang Aquatic Products and General Import Export Company (“Stapimex”), Vinh Loi Import Export Company (“Vimex”) and UTXI Aquatic Products Processing Company (“UTXI”), Bac Lieu Fisheries Company Limited, C.P. Vietnam Livestock Co. Ltd., Cai Doi Vam Seafood Import-Export Company (Cadovimex), Cam Ranh Seafoods Processing Enterprise Company (“Camranh Seafoods”), Coastal Fisheries Development Corporation (Cofidec), Cuulong Seaproducts Company (“Cuu Long Seapro”), Danang Seaproducts Import Export Corporation (“Seaprodex Danang”), Hanoi Seaproducts Import Export Corporation (“Seaprodex Hanoi”), Investment Commerce Fisheries Corporation (“Incomfish”), Kien Gang Seaproduct Import and Export Company (“Kisimex”), Minh Hai Joint-Stock Seafoods Processing Company (“Seaprodex Minh Hai”), Minh Hai Sea Products Import Export Company (Seaprimexco), Ngoc Sinh Private Enterprise, Nha Trang Fisheries Joint Stock Company (“Nha Trang Fisco”), Nha Trang Seaproduct Company (“Nha Trang Seafoods”), Phu Cuong Seafood Processing and Import-Export Co., Ltd., Phuong Nam Co. Ltd., Thuan Phuoc Seafoods and Trading Corporation, Viet Foods Co., Ltd. (“Viet Foods”). We note that certain respondents above are simultaneously represented by two law firms, thus where a shrimp exporter is represented by both law firms, we only list the respondent once for purposes of summarizing case briefs. Moreover, we have included certain shrimp exporters above for whom the review has already been rescinded because the case brief submitted by the collective group of exporters contained shrimp exporters for which the review was rescinded at the Preliminary Results.

General Issues

Comment 1: Surrogate Country

Petitioner contends that the Department erroneously selected Bangladesh as the surrogate country in the Preliminary Results. Petitioner argues that the record evidence shows that India was a more appropriate choice because India's gross national income ("GNI") of \$720 per capita is closer to that of Vietnam's (\$620 per capita), whereas Bangladesh's GNI of \$470 per capita is below both Vietnam's and India's GNI, respectively.⁵ Petitioner further argues that India is the appropriate surrogate country choice due to data considerations. Specifically, Petitioner asserts that Indian surrogate value data for raw shrimp, the main input, surrogate financial ratios, and other inputs provide the best information available on the record. Petitioner argues that India should be selected as the appropriate surrogate country for this review and that the surrogate values should be revised accordingly.

In rebuttal, the mandatory respondents argue that Bangladesh remains the most appropriate surrogate country on the record for this review. The mandatory respondents contend that Petitioner's request to unequally categorize the potential surrogate countries listed in the Memorandum from Ron Lorentzen, Director, Office of Policy, to Jim Doyle, Office Director, AD/CVD Enforcement, Office 9: Administrative Review of Certain Warmwater Shrimp from Vietnam: Request for a List of Surrogate Countries, dated July 31, 2007, at Attachment I ("Surrogate Country List") is contrary to Department policy. The mandatory respondents argue that the Department chose Bangladesh as the appropriate surrogate country from the Surrogate Country List because it fulfilled the surrogate country selection criteria more expansively than did India. The mandatory respondents also refer to their comments submitted on October 26, 2007, discussing the similarities between Bangladesh and Vietnam with respect to shrimp production processes and the nature of shrimp farming as it relates to the Vietnamese shrimp processors and the shrimp processors on the Surrogate Country List.⁶ The mandatory respondents also argue that selection of a surrogate country should not hinge on the relative contemporaneity of the surrogate values for inputs other than shrimp.

Additionally, both mandatory respondents and Fish-One argue that the smaller difference in GNI between Vietnam and India as compared to Vietnam and Bangladesh is not a sufficient basis upon which the Department must select an appropriate surrogate country. Fish-One also argues that Bangladesh is a significant producer of black tiger shrimp and that the Bangladeshi surrogate value data is not inferior to that of India. Moreover, with respect to Petitioner's argument that the Bangladeshi data are not contemporaneous, Fish-One asserts that the Department has the discretion to determine which factors among the surrogate value selection criteria take precedence over other criteria. Fish-One argues that, in this instance, the Department determined that a broad-market average of raw shrimp pricing data points was more important than contemporaneity when reviewing the data from the potential surrogate countries. As a result, Fish-One argues that

⁵ Petitioner cited to our policy bulletin to argue the economic comparability criteria used in the surrogate country selection process. See U.S. Department of Commerce, Import Administration Policy Bulletin 4.1 at 2 (March 1, 2004) ("Policy Bulletin") available at <http://ia.ita.doc.gov/policy/bull04-1.html>.

⁶ See Comments from Minh Phu Group and Camimex, dated October 26, 2007.

the Department correctly selected Bangladesh as the surrogate country due to data considerations. Fish-One notes that, otherwise, if the Department was more concerned with contemporaneity, it would have selected Bangladesh and used the ranged shrimp prices of Apex Foods Limited (“Apex”), which, like Indian company Devi Seafoods Ltd. (“Devi”), is also a shrimp processor. Finally, Fish-One notes that the Department has consistently selected Bangladesh as the surrogate country for all Vietnamese antidumping duty proceedings. Fish-One contends that Petitioner is requesting a change in practice because the preliminary dumping margins were de minimis.

Department’s Position:

We disagree with Petitioner with respect to the appropriate surrogate country selected for this administrative review. The Department notes that Petitioner’s case brief contains the same arguments regarding the relative GNI comparability of the countries on the Surrogate Country List as well as the purported relative superiority of the surrogate value data from India as compared with Bangladesh as in Petitioner’s comments dated October 26, 2007, and January 23, 2008, prior to the Preliminary Results.

In the Preliminary Results, we stated that, given that: (1) Bangladesh is at a comparable level of economic development to Vietnam, 2) Bangladesh is a significant producer of comparable merchandise, and 3) the Bangladeshi data satisfy the Department’s selection criteria, such as publicly available sources, contemporaneity with the POR, and, representing a broad-market average, we determined that Bangladesh was the appropriate surrogate country for the purposes of this administrative review.⁷ Specifically, with respect to Petitioner’s arguments regarding the relative GNI’s of the countries on the Surrogate Country List, we stated that the Department considers the five countries identified in its Surrogate Country List as equally comparable in terms of economic development. See id. Thus, we find that Bangladesh, Pakistan, India, Sri Lanka, and Indonesia are all at an economic level of development equally comparable to that of Vietnam. See Surrogate Country Memo at 7. We also note that the Policy Bulletin unambiguously states that the surrogate countries on the list are not ranked and should be considered equivalent in terms of economic comparability. See Policy Bulletin. Moreover, our “current practice reflects in large part the fact that the statute does not require the Department to use a surrogate country that is at a level of economic development most comparable to the NME country.” See id., at footnote 5.

Additionally, we note that Petitioner’s arguments with respect to the value of raw shrimp, the main input to the subject merchandise, were also addressed in the Preliminary Results. We stated that “while the {Petitioner’s} Indian data is ranged and obtained from one Indian producer of comparable merchandise, the Bangladeshi shrimp values represent a broad-market average...therefore, because the record contains shrimp values for Bangladesh that meet our selection criteria and since data considerations are a part of the process in determining surrogate country, we are selecting Bangladesh as the surrogate country.” See Surrogate Country Memo at 9. In other words, an important factor for the Department’s selection of Bangladesh as the surrogate country was based on a broader fulfillment of our surrogate value selection criteria using Bangladeshi data rather than Indian data with which to value raw shrimp.

⁷ See Memorandum to the File, through James C. Doyle, Director, Office 9, from Irene Gorelik, Analyst, Office 9; Second Antidumping Duty Administrative Review of Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Selection of a Surrogate Country, dated February 28, 2008 (“Surrogate Country Memo”).

Notwithstanding our determination in the Preliminary Results, pursuant to the Department's regulations, interested parties had the opportunity to submit additional surrogate value data on the record twenty days after the publication of the Preliminary Results. See 19 § 351.301(c)(3)(ii). However, only the mandatory respondents placed additional surrogate value information on the record. Moreover, section 351.301(c)(1) of the Department's regulations allows an interested party to submit factual information to rebut, clarify, or correct the factual information {submitted by another interested party} no later than ten days after the date such factual information is served, of which Petitioner did not avail itself to support its previous claim that Indian surrogate value data is superior to that of Bangladesh. Therefore, the record does not contain any additional information to support Petitioner's arguments to compel the Department to make a surrogate country change for the final results. Consequently, for the final results, we will continue to use Bangladesh as the appropriate surrogate country.

Comment 2: Raw Shrimp Surrogate Value

Petitioner argues that the raw shrimp surrogate value ("SV") from a report published by the Network of Aquaculture Centres in Asia Pacific ("NACA"), which was used by the Department in the Preliminary Results, is flawed. Petitioner contends that the Department should instead use the count size-specific raw shrimp purchase prices from an Indian shrimp processor.⁸ Petitioner contends that the NACA report is unreliable because it was based on voluntary questionnaire responses that were not audited. Petitioner contends that the general price information was collected by the Bangladeshi Department of Fisheries officers with the aim of validating the general accuracy of the survey. Additionally, Petitioner argues that the survey's coverage of the industry is extremely limited given that data from Apex, one of the largest shrimp processors, was not included in the survey. Lastly, Petitioner states that the NACA data are incomplete because they do not include two of the shrimp count sizes used in the first administrative review.

Petitioner claims that, as the study has not been updated since the last administrative review period, the NACA study only covers four months of the POR and the data itself is no longer specific to the count sizes reported by the mandatory respondents, and notes that the Department was required to extrapolate more prices for count sizes in this proceeding than in the previous administrative review. Petitioner offers that the only alternative is to use Devi's count-size specific raw shrimp prices, which, it argues, is the best available information on the record in view of the flawed NACA study.

In rebuttal, the mandatory respondents argue that Petitioner's criticism of the NACA data was rejected in the first administrative review and should be rejected in the instant review as well. The mandatory respondents argue that, while the NACA data may be deemed imperfect because they are not fully contemporaneous with the POR, the NACA data are far superior to the alternatives on the record as submitted by Petitioner. With respect to whether the NACA data is audited, the mandatory respondents contend that neither the Department's regulations, nor Department

⁸ The raw shrimp surrogate values proposed by Petitioner are contained within Attachments I and II of Petitioner's surrogate value submission dated October 26, 2007. Attachment I contains the ranged data of Devi, an Indian shrimp processor, and Attachment II contains an affidavit from a market research firm quoting shrimp prices.

precedent, require that surrogate values be audited. The mandatory respondents assert that the NACA study is reliable based on the fact that it is composed of the price data of the actual sales of eight processors and that NACA sought to corroborate the data against other sources.⁹ Moreover, the mandatory respondents contest Petitioner's allegation that the NACA study is based on general price information with the aim of validating the general accuracy of the survey. Instead, the mandatory respondents assert that the price data is based on actual transactions. The mandatory respondents also reject Petitioner's argument that the NACA study does not sufficiently cover the count sizes produced by the mandatory respondents, requiring extensive extrapolation by the Department.¹⁰

Department's Position:

We disagree with Petitioner with respect to the NACA data used in the Preliminary Results to value the main input, raw shrimp. In the Preliminary Results, we selected Bangladesh as the surrogate country because the data submitted on the record for Bangladesh satisfied a wide range of the Department's selection criteria, such as publicly available sources representing a broad-market average that are product-specific and tax exclusive.¹¹

First, as stated above, an important factor in selecting Bangladesh as the surrogate country was due to data considerations, specifically, the availability of count-size specific data that is publicly available and compiled from a broad-market average. We have already noted that Petitioner provided only, as raw shrimp surrogate values, an Indian raw shrimp price quote from an affidavit or the publicly ranged shrimp prices from a single Indian shrimp processor. See Footnote 8 above.

Second, with respect to the exclusion of Apex within the study, we have previously stated that "because eight other shrimp processors were included in the study, we do not find that the exclusion of Apex renders the study unrepresentative of the Bangladeshi shrimp industry." See Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam: Final Results of the First Antidumping Duty Administrative Review and First New Shipper Review 72 FR 52052 (September 12, 2007) ("Vietnam Shrimp AR1"), and accompanying Issues and Decision Memorandum at Comment 1.

⁹ "Procurement price data were consistent with data collected over the 2004-2005 period as part of the USAID funded Agro-based Industries and Technology Development Project, Shrimp Seal of Quality, therefore validating the information collected through the survey." See NACA Study at 62.

¹⁰ The mandatory respondents argue that Petitioner has misunderstood the term "extrapolation" as used by the Department. The mandatory respondents note that the prices for three of the count sizes (RM02, RM03, and RM08) are not extrapolated because the values were non-existent. Rather, they note that the Department weight-averaged the values for two straddling count sizes, thereby extrapolating a price for an in-between count size.

¹¹ See Surrogate Country Memo at 9. See also Certain New Pneumatic Off-The-Road Tires from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances 73 FR 40485 (July 15, 2008) and accompanying Issues and Decision Memorandum at Comment 9.

Third, we also disagree with Petitioner's argument that the method by which NACA collected its information makes the study unreliable. As we stated in Vietnam Shrimp AR1, the NACA study states that: (1) "data on prices and quantity traded over the period under study were collected from most stakeholders using actual records of sales maintained by the stakeholders themselves," (2) "since data were collected mostly by fisheries officers residing in the area, no major difficulties were faced in having access to records," and (3) "procurement price data were consistent with data collected over the 2004-2004 period as part of the USAID funded Agro-based Industries and Technology Development Project (ATDP), Shrimp Seal of Quality, therefore validating the information collected through this survey." See id.

Fourth, we also disagree with Petitioner's assumption that the NACA study is deficient due to extrapolation in the instant review. While it is true that we extrapolated more count sizes in the instant review than in Vietnam Shrimp AR1, we do not find that extrapolation of NACA's shrimp prices render the data less reliable than publicly-ranged shrimp prices from one Indian shrimp processor or a price quote in an affidavit, as submitted by Petitioner. We note that the extrapolation of NACA shrimp prices occurred only for RM08 (partially), RM09, RM10, RM11, and RM13. See Memorandum to the File through Alex Villanueva, Program Manager, Office 9 from Irene Gorelik, Analyst, Office 9; Antidumping Duty Administrative of Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Surrogate Values for the Preliminary Results, dated February 28, 2008 at Exhibit 4. The NACA study encompassed shrimp prices for RM01 through RM07, some of which were weight-averaged in the instances where the company-specific count-sizes overlapped with the NACA study count-sizes per price. See id. Therefore, while additional extrapolation was necessary, the breadth of the count sizes reported by the mandatory respondents was accounted for within the NACA study.

Finally, with respect to Petitioner's argument that the NACA data is not fully contemporaneous with the POR, we note that "the Department does not place more weight on contemporaneity above the other surrogate value selection criteria."¹² Therefore, consistent with the Court of International Trade's ("CIT") holding in Hebei Metals and our determination in Vietnam Fish AR1, we find that the other surrogate value selection criteria supporting the use of the NACA data (broad-market average, specificity, publicly available) outweigh the use of more contemporaneous data.

Furthermore, as we stated above, though an interested party has the opportunity to submit additional surrogate value data on the record after the Preliminary Results, only the mandatory respondents placed additional surrogate value information regarding surrogate value data on the record. Moreover, though Petitioner had the opportunity to submit factual information to rebut, clarify, or correct the factual information (submitted by another interested party) after such factual information is served, Petitioner did not do so. Petitioner did not submit any additional

¹² See e.g., Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Final Results of the First Administrative Review 71 FR 14170 (March 21, 2006) ("Vietnam Fish AR1") and accompanying Issues and Decision Memorandum at Comment 3A; Hebei Metals & Minerals Import & Export Corporation and Hebei Wuxin Metals & Minerals Trading Co., Ltd. v. United States, Slip Op. 05-32 (CIT 2005) ("Hebei Metals") (where the CIT found that "while contemporaneity of data is one factor to be considered by Commerce...three months of contemporaneity is not a compelling factor where the alternative data is only a year-and-a-half distant from the POI."

information on the record of this review to support a reversal of our determination in the Preliminary Results.

Therefore, we continue to find the NACA study to be the best information on the record with which to value raw shrimp, because it is based on prices that are product-specific, and a broad-market average that is publicly available.

Comment 3: Surrogate Financial Statements

Petitioner asserts that the financial statements used in the Preliminary Results are not as contemporaneous as the financial statements from the (Devi, Waterbase Ltd., and Nekkanti Sea Foods Limited) Indian shrimp producers placed on the record by Petitioner. See Petitioner's Case Brief dated May 7, 2008, at 10-11.

In rebuttal, the mandatory respondents argue that financial statements of Apex and Gemini remain the best information available on the record with which to derive surrogate financial ratios. Moreover, with respect to Petitioner's contemporaneity argument, the mandatory respondents note that they placed additional financial statements from Apex for the fiscal year 2006-2007 on the record of this review should the Department wish to use them for greater POR coverage. See Minh Phu and Camimex Supplemental Surrogate Value submission dated March 26, 2008. The mandatory respondents note that if both Apex's 2005/2006 and 2006/2007 financial statements are averaged with Gemini's 2005-2006 financial statements, the Department would have financial ratios that cover the entirety of the POR.

Department's Position:

In the Preliminary Results, the Department averaged the surrogate financial ratios of two Bangladeshi shrimp processors: Apex (fiscal year ending in June 2006) and Gemini Seafood Limited ("Gemini") (fiscal year ending September 2006). After the Preliminary Results, the mandatory respondents, Minh Phu Group and Camimex, submitted Apex's financial statement (fiscal year ending June 2007) on the record. See id.

As the Department stated in the final results of the first administrative review of this antidumping duty order, "in this and future reviews, the Department intends to use one set of financial statements from a company that overlaps the most months of the appropriate POR," when the record contains multiple financial statements from a single company. See Vietnam Shrimp AR1, at Comment 2A. Specifically, averaging multiple financial statements from the same company results in a derivation of financial ratios based on data that is less contemporaneous and creating a temporally less representative method for deriving financial ratios than simply using the most contemporaneous financial statements.¹³ Therefore, for the final results of this review, we have averaged Apex's 2006/2007 financial statements with Gemini's 2005/2006 financial statements to

¹³ This is consistent with our practice in Vietnam Shrimp AR1 and Honey From the People's Republic of China; Notice of Final Results of Antidumping Duty New Shipper Reviews, 70 FR 9271 (February 25, 2005) and accompanying Issues and Decision Memorandum at Comment 3 (where the Department used the more contemporaneous financial statements to derive financial ratios).

derive the surrogate financial ratios. See Memorandum to the File through Catherine Bertrand, Program Manager, Office 9, from Irene Gorelik, Senior Analyst, Office 9; Antidumping Duty Administrative of Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Surrogate Values for the Final Results, dated September 2, 2008.

Comment 4: Wage Rate Calculation

Fish-One argues that the Department has continued to ignore the mandate of the Tariff Act of 1930, as amended (“the Act”), in its calculation of the surrogate value for labor. Fish-One notes that section 773 of the Act states that the Department shall “utilize, to the extent possible, the prices or costs of factors of production in one or more market economy countries that are—(A) at a level of economic development comparable to that of the nonmarket economy country, and (B) significant producers of comparable merchandise.” See section 773(c)(4) of the Act. Fish-One further claims that the regression-based analysis used by the Department to calculate the labor wage rate includes countries at a level which are not comparable to that of Vietnam, e.g., Luxembourg, Denmark, Austria, Norway, Japan and Finland have GNI’s up to 10,400% higher than Vietnam. Fish-One also contends that there is no record evidence that the countries used to derive the labor wage rate for Vietnam are significant producers of frozen shrimp. According to Fish-One, because the regression-based labor wage rate does not comply with the statute and because the results are distortive and biased, the Department’s method should be abandoned for the final results.

Fish-One cites Dorbest Ltd. et al v. United States, 462 F. Supp. 2d 1262 (CIT 2006), arguing that the CIT required the Department to either correct its labor rate calculation, or explain why the Department’s current methodology is consistent with the statute. Moreover, Fish-One claims that the CIT found that the Department excluded countries that met its selection criteria in the calculation of expected wages, finding the Department’s methodology to be unreasonable and rendering the results of the regression-based wage rates unsupported by substantial evidence. Further, Fish-One contends that the Department should explain whether it had data for countries that were not used in its regression analysis.

Fish-One asserts that, for the countries with comparable economic development, the Department’s regression analysis predicts wage rates higher than their actual values. Using various charts, Fish-One contends that the Department’s regression-based analysis is distortive when it predicts wage rates for countries with lower GNIs.¹⁴ Fish-One notes that India is one of the five countries listed by the Department as being economically comparable to Vietnam, India is a significant producer of subject merchandise, and that the International Labor Organization (“ILO”) has published data on India (but does not have published data for Bangladesh). Therefore, Fish-One argues that in order to eliminate this distortion, and to be consistent with the Act, the Department should use the labor wage rate of India, \$0.13 per hour.

¹⁴ See Fish-One’s Case Brief dated May 7, 2008 at 11-13 (charts). Fish-One claims that India’s inflated wage rate for 2004 was \$0.13 per hour, while the Department’s regression analysis predicted that a country with India’s GNI should have a wage rate of \$0.40 per hour, 300% higher than India’s actual rate. Fish-One claims that, for example, the Department’s regression-based model predicts a wage rate of \$0.09 per hour for a country with a GNI of zero.

In rebuttal, Petitioner notes that Fish-One's same argument regarding the wage rate was rejected in the preceding administrative review and should be rejected here as well. Petitioner states that, while the Department should employ the updated 2005 regression-based wage rate data recently published by the Department, there is no reason for the Department to deviate from its consistent practice of determining surrogate wage rates using the regression-based wage model in the instant review.

Department's Position:

We agree with Petitioner that we should use the revised labor rate using the correct 2007 wage rates. For the final results, we will continue to use regression-based wage data, but will use US \$0.54 as the revised wage for Vietnam in the final results, which continues to be based on the reported experience of several countries, but applies the more recent 2007 calculations, which are based on 2005 wage rate data.¹⁵ We find that a larger number of countries' data maximizes the accuracy of the regression results, minimizes the effects of the potential year-to-year variability among the various countries, and provides predictability and fairness. The economic comparability is established in the regression calculation through the gross national index ("GNI") of Vietnam and ensures that the result represents a wage rate for a country economically comparable to Vietnam.

We disagree with Fish-One's argument that the regression methodology is contrary to the antidumping statute. The Department's long-standing regression methodology, set forth in the Department's regulations at 19 § 351.408(c)(3) has been recently affirmed by the CIT. See Dorbest Ltd. v. United States, 547 F. Supp. 2d 3121, Slip Op. 2008-24 (CIT Feb. 27, 2008) (remanded on other grounds) ("Dorbest 2008"); Wuhan Bee Healthy Co., Ltd. v. United States, Slip Op. 2008-61, at 6-7 (CIT May 29, 2008).

In Dorbest 2008, the CIT affirmed the Department's findings that choosing a single wage rate from an economically comparable market economy, averaging the wage rates of economically comparable market economies, and running the regression only on economically comparable countries does not reduce the potential for distortion or increase either fairness or predictability. See Dorbest 2008, 547 F. Supp. 2d 3121, Slip Op. 2008-24 at 11. Accordingly, we find that, as upheld by the CIT in Dorbest 2008, the Department's regression methodology is superior to a single country's wage rate because the regression methodology ameliorates any country-specific distortion that would cause variation in the data, ties the estimated wage rate directly to each NME's GNI, and provides predictable results that are as accurate as possible. We find that the regression-based methodology does not distort or systematically overestimate wage rates in general; rather, the regression line serves to smooth out the differences in the reported wage rates. By ensuring the data in the regression includes all earnings data that best reflect the dynamics of contemporaneous labor markets and represents both men and women in all reporting industries, the Department is able to minimize many potential distortions. Therefore, using a large basket of data is less susceptible to both the country-by-country, as well as the year-on-year, variability in data and enables the Department to arrive at the most accurate, predictable, and fair surrogate

¹⁵ See <http://ia.ita.doc.gov/wages/05wages/05wages-051608.html>; see also Corrected 2007 Calculation of Expected Non-Market Economy Wages, 73 FR 27795 (May 14, 2008).

value for labor.¹⁶ Because reliable wage rate data is available and there exists a consistent relationship between wage rates and GNI over time, the Department is able to avoid periodic variability through the use of a regression-based methodology for estimating wage rates. The Department calculates, in essence, an average wage rate of all market economies, indexed to each NME's level of economic development via its GNI. Using the Department's regression methodology, the value for labor in a particular country remains consistent despite the possible selection of different surrogate countries. This enhances the fairness and predictability of the Department's calculations.

In Antidumping Methodologies: Market Economy Inputs, Expected Non-Market Economy Wages, Duty Drawback; and Request for Comments, 71 FR 61716, 61720-61721 (October 19, 2006), the Department addressed Fish-One's primary argument and found that restricting the basket of countries to include only countries that are economically comparable to each NME country would undermine the consistency and predictability of the Department's regression analysis. The smaller the number of countries included in the basket, the more likely the data from the surrogate would individually affect the wage rate applied. A basket of "economically comparable" countries could be extremely small. For example, there are only four countries with GNI less than US\$1,000 in the Department's 2005 expected NME wage rate calculation and many NME countries' GNI are around this range. A regression based on an extremely small basket of countries would, therefore, be highly dependent on each and every data point. This would in many ways defeat the reason the Department uses ILO data to determine wage rates. It is also worth noting that this relative basket size would not be such a critical factor if there were a perfect correlation between GNI and wage rates. If this were the case, data from only two countries would be sufficient to calculate a precise regression line. However, while there is a strong worldwide relationship between wage rates and GNI, there is nevertheless variability in the data.¹⁷ This inevitable variability in the underlying ILO data is especially true in the case of countries with a lower GNI where wage rates can be so low that even a difference of a few cents can appear to be enormous if represented in percentage terms.

Lastly, we note that the Department provided the full explanation for the countries it included and excluded in its 2007 wage rate calculation. See Request for Comments on 2007 Calculation, 73 FR 19812; see also 2007 Calculation of Expected Non-Market Economy Wages, 73 FR 26363 (May 8, 2008) ("2007 Wage Rates"). All parties had ample opportunity to comment on the

¹⁶ The Department cannot purport to produce perfect wage rates with its regression methodology, as no estimate ever can claim such precision. However, there is no inherent distortion in the model that would lead to systematic overestimation or underestimation of wages. The Department acknowledges that its regression line provides only an estimate of what an NME's hourly wage rate would be within a mathematically derived margin of error based on the wage rates and GNI data from market economies. As with any estimate based on a pool of data, some data will fall above the estimate and some data will fall below the estimate.

¹⁷ For example, in the data relied upon for the Department's 2005 calculation, observed wage rates did not increase in lockstep with increases in GNI in the four countries with GNI less than US\$1,000: Nicaragua, with a GNI of US\$950, had reported a wage rate of US\$0.884 per hour, Mongolia, with a GNI of US\$720, had reported a wage rate of US\$0.434 per hour, India, with a GNI of \$730, had reported a wage rate of US\$0.213 per hour, and Madagascar, with a GNI of US\$290, had a reported wage rate of US\$0.200. See <http://ia.ita.doc.gov/wages/05wages/05wages-051608.html>.

calculated wage rates to be applied to the final results of this administrative review, as requested in the Request for Comments on 2007 Calculation. The Department published the 2007 Wage Rates, notifying parties of the finalized NME wage rates and informing parties that those wage rates would be “in effect for all antidumping proceedings for which the Department’s final decision is due after the publication of this notice.”¹⁸ Accordingly, we find that all parties were notified of the Department’s intention to apply the revised wage rates for the final results and, thus, we will continue to use the revised regression-based wage rates for the final results.

Comment 5: Treatment of Sales with Negative Margins (“Zeroing”)

Fish-One argues that the Department should not employ its practice of setting negative margins to zero (i.e., “zeroing”) in calculating the final results weighted-average dumping margin, in accordance with findings of the Appellate Body of the World Trade Organization (“WTO”). Specifically, Fish-One notes that, recently, the WTO Appellate Body found that zeroing in administrative reviews is inconsistent with the WTO Antidumping Agreement.¹⁹ Fish-One argues that, because the WTO Appellate Body has ruled that zeroing in reviews is contrary to U.S. obligations and the Department has already eliminated its practice of zeroing in investigations, the Department should recalculate the margins in this review without incorporating the practice of zeroing in the final results. Fish-One continues that, where the Department has authority to interpret the statute, the Department may reassess its policies and apply new policy to a pending case. See Fish-One’s Case Brief dated May 7, 2008 at 17. Fish-One also argues that the U.S. Court of Appeals for the Federal Circuit (“CAFC”) has held that the Department’s policy of zeroing is not statutorily required, but a result of the Department’s interpretation of the statute.²⁰

In rebuttal, Petitioner argues that the Department should continue to employ its zeroing methodology for the final results. According to Petitioner, other than in antidumping investigations, where the average-to-average comparison methodology is used, the Department does not permit non-dumped sales to offset the amount of dumping with respect to dumped sales. Petitioner notes that this methodology and interpretation of the statute was upheld by the CAFC, which affirmed the Department’s use of zeroing in administrative reviews until the Department itself officially abandons the practice. See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin During an Antidumping Investigation; Final Modification, 71 FR 77722 (December 27, 2006) (“Zeroing Notice”); and NSK Ltd. v. United States, 510 F.3d 1375 (Fed. Cir. 2007) (“NSK”). Petitioner further argues that the Department has already considered the claims in other proceedings that the decisions of the WTO Appellate Body require the Department to eliminate zeroing in administrative reviews, and determined that the Appellate Body’s decisions to date have no bearing on whether the Department’s zeroing practice is

¹⁸ On May 14, 2008, the Department published Corrected 2007 Wages, 73 FR 27795, correcting a ministerial error in the wage rate calculation.

¹⁹ See, i.e., United States - Measures Relating to Zeroing and Sunset Reviews, Appellate Body Report, WT/DS322/AB/R (January 9, 2007) (adopted January 23, 2007).

²⁰ See id., at footnote 1. Fish-One also cites to various cases where the Department has applied changes with respect to Department policy or practice following changes in statutory interpretations or to maintain consistency with international treaty obligations.

consistent with U.S. law.²¹ Therefore, Petitioner asserts that the Department should continue to deny offsets for non-dumped transactions in the final results of this administrative review.

Department's Position:

We disagree with Fish-One and have not revised our calculation of the weighted-average dumping margins for the final results of this review with respect to the treatment of non-dumped transactions.

Section 771(35)(A) of the Act, defines “dumping margin” as the “amount by which the normal value exceeds the export price or constructed export price of the subject merchandise.” Outside the context of antidumping investigations involving average-to-average comparisons, the Department interprets this statutory definition to mean that a dumping margin exists only when normal value is greater than export or constructed export price. As no dumping margins exist with respect to sales where normal value is equal to or less than export or constructed export price, the Department will not permit these non-dumped sales to offset the amount of dumping found with respect to other sales. See Certain Frozen Warmwater Shrimp from Ecuador: Final Results and Partial Rescission of Antidumping Duty Administrative Review 73 FR 39945 (July 11, 2008) and accompanying Issues and Decision Memorandum at Comment 1.

Additionally, the CAFC has held that this is a reasonable interpretation of the statute. See e.g., Timken Co. v. United States, 354 F.3d 1334, 1342 (Fed. Cir. 2004) (Timken); Corus Staal BV v. Department of Commerce, 395 F.3d 1343, 1347-49 (Fed. Cir. 2005), cert. denied; 126 S. Ct. 1023, 163 L. Ed. 2d 853 (January 9, 2006) (“Corus I”). Fish-One has cited WTO dispute-settlement reports finding the denial of offsets by the United States to be inconsistent with the WTO Antidumping Agreement. As an initial matter, the CAFC has held that WTO reports are without effect under U.S. law, “unless and until such a {report} has been adopted pursuant to the specified statutory scheme” established in the Uruguay Round Agreements Act (“URAA”). See Corus I, 395 F.3d at 1347-49; accord Corus Staal BV v. United States, 502 F.3d, 1370, 1375 (Fed. Cir. 2007) (Corus II); NSK, 510 F.3d at 1375.

While the Department has modified its calculation of weighted-average dumping margins when using average-to-average comparisons in antidumping investigations, the Department has not adopted any other modifications concerning any other methodology or type of proceeding, such as administrative reviews. See Zeroing Notice, 71 FR at 77724.

For all these reasons, the various WTO Appellate Body reports regarding “zeroing” do not establish whether the Department’s denial of offsets in this administrative review is consistent

²¹ See e.g., Certain Cut-to-Length Carbon-Quality Steel Plate Products From the Republic of Korea: Final Results of Antidumping Duty Administrative Review and Rescission of Administrative Review in Part, 73 FR 15132 (March 21, 2008) and accompanying Issues and Decision Memorandum at Comment 2; Certain Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Notice of Final Results of the Thirteenth Administrative Review 73 FR 14220 (March 17, 2008) and accompany Issues and Decision Memorandum at Comment 1; Petitioner additionally cites four other recent determinations where the Department rejected a zeroing argument in the final results. See Petitioner’s Rebuttal Brief dated May 14, 2008, at 14.

with U.S. law. Accordingly, and consistent with the Department's interpretation of the Act as described above, the Department has continued to deny offsets to dumping based on export transactions that exceed the normal value in this review. Consequently, we have not changed the methodology employed in calculating the respondents' weighted-average dumping margins for these final results.

Comment 6: Separate Rate Calculation Methodology

Petitioner argues that the Department's calculation of a de minimis dumping rate and a zero dumping rate for the two mandatory respondents in the Preliminary Results was inappropriate. Petitioner further argues that, even if the Department continues to calculate a de minimis and zero dumping margin for the mandatory respondents in the final results, the Department should not average those rates and apply the result to the SR Respondents. Petitioner contends that the separate-rate calculation methodology in the Preliminary Results was illogical and inequitable because there was no probative evidence on the record that supports a finding that the rates calculated for the individually reviewed mandatory respondents reflect the behavior of the non-reviewed SR Respondents. Petitioner notes that the statute provides that where it is not practicable to make individual weighted-average dumping determinations for all exporters and producers because of the large number of companies involved in the review, and the Department limits its examination to selected respondents, the Department shall calculate a rate for the non-examined companies based on the weighted-average of the dumping margins established for the individually investigated companies, excluding any zero and de minimis margins, and "facts available" margins. Petitioner also notes that in cases where the established dumping margins are zero, de minimis, or based on facts available, the statute authorizes the Department to use any "reasonable method" in calculating the all-others rate. Petitioner further notes that the Statement of Administrative Action ("SAA") states that in using any reasonable method to calculate the all-others rate, "the expected method in such cases will be to weight-average the zero and de minimis margins and margins determined pursuant to the facts available..." See SAA accompanying the URAA, H.Doc. 316, Vol 1., 103rd Cong (1994) (SAA) at 203.

Petitioner argues that a situation as described by the SAA exists here because in the Preliminary Results, the Department assigned the facts available ("FA") rate to companies unresponsive to the Department during the review. Thus, Petitioner argues, the Department should include the FA rate in the separate-rate margin calculation. Petitioner urges that the Department should not, in any circumstances, assign a zero margin to the SR Respondents because doing so would not be reasonably reflective of the potential dumping margins for the non-investigated exporters or producers. See SAA at 203. Moreover, Petitioner argues that the Department has not explained nor is able to explain how the zero or de minimis dumping margins calculated for two mandatory respondents are reasonably reflective of the potential dumping margins for non-investigated producers or exporters, as decreed by the SAA. Instead, Petitioner urges the Department to employ another reasonable method to determine the separate-rate margin, if it is unable to employ Petitioner's expected method. Alternatively, Petitioner offers that, at a minimum, the Department should employ the separate-rate calculation methodology used in the preceding administrative review, where the circumstances were similar to those in this administrative review.²²

²² See Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam: Preliminary Results of the First

Fish-One notes that in the preceding administrative review, it was a mandatory respondent for which the Department calculated a zero percent dumping margin. Fish-One further notes that because it was not one of the respondents individually selected for review in the instant proceeding, it did not have the opportunity to receive a company-specific calculated dumping margin, thus, it is one of the SR Respondents.

Fish-One argues that, although the Department's policy indicates that de minimis and zero rates are excluded from the calculation of the separate rate, the Department has recently included zero and de minimis rates for the separate rate calculation.²³ Fish-One argues that, because the Department calculated a de minimis and a zero rate for the selected respondents, the Department followed a reasonable method to calculate the separate-rate margins for the non-selected SR Respondents under the exception noted in section 735(c)(5) of the Act. Fish-One claims that the Department's alternative reasonable method to calculate the separate-rate margins was further supported by the SAA, which accounts for a method with which to calculate separate-rate margins that reasonably reflect the potential dumping margins for non-investigated exporters or producers. See SAA at 873. Fish-One contends that, due to the nature of the shrimp business worldwide, it is likely that the dumping margins of the mandatory respondents are reflective of the shrimp industry at large in Vietnam. Therefore, Fish-One argues that the Department's separate-rate margin calculation methodology was compliant with the requirement that the Department calculate a separate-rate as accurately as possible with the best available information.

Fish-One argues that, to remain consistent with policy and practice, the Department should continue to grant the SR Respondents the average dumping margin of the weighted-average dumping margins calculated for the selected respondents. However, Fish-One argues that, if the Department discontinues the separate-rate calculation methodology from the Preliminary Results, then Fish-One should be assigned either: a zero rate or no rate at all because it claims that this review period is an "unreviewed intervening" year for Fish-One.²⁴ Fish-One claims this

Administrative Review and New Shipper Review 72 FR 10689, 10694-95 (March 9, 2007) (unchanged in final results) (where the Department stated that it "preliminarily determined to apply the margin calculated for cooperative separate rate respondents in the immediately preceding segment of this proceeding, i.e., the margin of 4.57 percent assigned to such companies in the LTFV investigation...this methodology constitutes a reasonable method by which to calculate such rate.")

²³ Fish-One cites to Honey from Argentina: Preliminary Results of Antidumping Duty Administrative Review and Intent Not to Revoke in Part 71 FR 78397 (December 29, 2006) ("Honey from Argentina") (unchanged in final results).

²⁴ Fish-One argues that, under section 351.222(d) of the Department's regulations, the current review period is an un-reviewed intervening year for Fish-One because it was not selected as a mandatory respondent. Fish-One further claims that the Department did not select Fish-One as a mandatory respondent because the Department: wanted to reduce its case burden and because the Department presumed that Fish-One did not dump during the review period. Fish-One further contends that, otherwise, if dumping was presumed, Fish-One would have been selected for review to preclude Fish-One from obtaining an "implicit" zero rate, thereby fulfilling 2/3 of the requirement of the three-year revocation regulation. Lastly, Fish-One argues that, even if the Department reverses its SR calculation methodology from the Preliminary Results, it qualifies for a request for revocation in the subsequent administrative review, which ought to be made clear by the Department in the instant proceeding.

alternative is justifiable because its case is special due to the zero calculated rate that it received in the preceding administrative review.

Grobest argues that under the provision of the SAA, the prohibition of using zero and de minimis rates to apply to the non-selected respondents does not apply in this case because these were the only rates calculated for the mandatory respondents. See SAA at 203. Thus, Grobest argues, these rates are reasonably reflective of the non-selected respondents. Grobest further argues that, unlike the preceding review where the Department calculated a de minimis rate and also applied facts available to non-cooperative selected respondents, the respondents, both mandatory and non-selected, have been fully cooperative with the Department. Grobest contends that, as a result, the calculated rates for the fully cooperative mandatory respondents are representative of the behavior of the non-selected respondents. Grobest argues that de minimis and zero rates calculated here are equally representative of the non-selected respondents, in the same manner as if the Department had calculated two rates of 0.51 %, which would have been averaged without issue. Grobest further notes that it had received a zero margin in its new shipper review, requested to be reviewed to maintain its zero margin, and, though not selected for individual review, has been fully cooperative in the instant review. Grobest argues that the application of any margin other than de minimis would be tantamount to penalizing the company because it was not selected for individual review.

SR Respondents and Grobest argue that the Department acted within its legal authority in the Preliminary Results and correctly relied on the mandatory respondents' weighted-average margins for the separate-rate margins. The SR Respondents and Grobest argue that the mandatory respondents are representative of the Vietnam shrimp industry because the Department selected the largest exporters to review here. Additionally, the SR Respondents cite to the preceding administrative review where the Department selected an alternative reasonable method to calculate a separate rate to account for fully cooperative respondents representing the majority of exports during a specific period that reflected the range of commercial behavior demonstrated by exporters of the subject merchandise in a recent period.²⁵ The SR Respondents argue that the record evidence of this proceeding, in light of the history of low, de minimis or zero margins calculated for other exporters, and the surrounding circumstances of this review, require the application of the de minimis separate-rate to all cooperative respondents. The SR Respondents contend that an alternative approach to the separate-rate calculation methodology employed in the Preliminary Results would necessarily disregard shrimp count sizes, the primary factor affecting shrimp prices.

Additionally, the SR Respondents argue that use of the separate rate assigned in the underlying investigation would not be reliable or reasonable for determining a separate-rate margin in this review because those margins are based on sales made over five years by two of the same respondents reviewed here that have demonstrated here that their sales were made within the de minimis range. If the Department elects not to use the mandatory respondents' calculated rates to assign a separate rate, the SR Respondents and Grobest argue that the only alternative option is for the Department to reopen the record and allow the SR Respondents to supplement the record with

²⁵ See SR Respondents' Case Brief dated May 7, 2008, at 3.

company-specific, count-size information as a reliable source for calculating the separate-rate margin based on the average unit value (“AUV”) to estimate U.S. price.²⁶ The SR Respondents note that the antidumping law is remedial and not punitive. The SR Respondents argue that if the Department denied the de minimis separate rate to the cooperative respondents, it would deny them the opportunity to earn revocation, thus disregarding the remedial nature of antidumping laws and collect duties without justification.

In rebuttal, Petitioner contends that the weighted-average margins calculated for the mandatory respondents are not reasonably reflective of the behavior of the non-selected companies. Petitioner argues that the relevant statute does not treat de minimis or zero margins, which are excluded from the calculation of the separate rate, in the same manner as it treats non-de minimis or non-zero margins. Petitioner argues that the CIT has rejected the Department’s decision to simply weight-average the zero/de minimis dumping margins of the mandatory respondents where the Department failed to explain that including the zero/de minimis margins would be reasonably reflective of the non-reviewed respondents.²⁷ Petitioner restates that the Department should employ the same separate rate calculation methodology from Vietnam Shrimp AR1 as a reasonable method for determining the separate rate margin. In the alternative, Petitioner would not be averse to reopening the record for the Department to determine the separate-rate margin based on count-size specific AUV’s reported by SR respondents. Petitioner provides several guidelines for calculating AUV’s based on specific-count sizes.

In rebuttal, Fish-One argues that Petitioner’s assertion that the mandatory respondents’ calculated rates are not representative is incorrect. Fish-One notes that every company specifically reviewed in the history of the antidumping duty order of shrimp from Vietnam has earned a zero or de minimis rate, showing that no Vietnamese exporters are selling subject merchandise at less than fair value. Fish-One argues that the mandatory respondents in this review are representative of the entire Vietnamese shrimp industry for purposes of respondent selection and by means of the mandatory respondents’ calculated zero and de minimis rates. Fish-One, therefore, urges that the record does not support Petitioner’s options of: (1) averaging de minimis/zero rates with the AFA rate of 25.76 or (2) using the separate-rate calculation methodology from the preceding administrative review, as both options presume an adverse inference against cooperative, non-selected respondents with justification or due process. Finally, Fish-One claims that it was not reviewed in an intervening year after having received a de minimis rate under the provision of 19 § 351.222(d) and should either be granted a de minimis rate or no rate at all.

In rebuttal, Grobest argues that the Department’s calculation of a de minimis margin for the SR Respondents in the Preliminary Results was logical, equitable and should be upheld in the final results. Grobest notes that the mandatory respondents together with the SR Respondents have all been cooperative during the course of the review, and as such, are entitled to the average of the mandatory respondents’ calculated rates. Moreover, Grobest argues that because it received a zero rate in its new shipper review, which was concurrent with the preceding administrative review, it would be inequitable to assign a higher rate to a company, absent evidence supporting a contrary decision. Grobest argues that, absent any contrary information on the record, it should

²⁶ See id., at 7-9.

²⁷ Petitioner cites to Yantai Oriental Juice Co. v. United States, 27 CIT 477,487 (CIT 2003).

receive the same result obtained by the mandatory respondents as they were deemed sufficient to represent the industry when selected as mandatory respondents. Moreover, Grobest argues that, the final results of the preceding review were distinguishable from this review because the mandatory respondents in this review have been cooperative while two mandatory respondents in the preceding administrative review were uncooperative and received an AFA rate, as a result. As such, Grobest claims, the Department concluded that a calculation incorporating both the zero and the AFA rates would not be reasonably reflective of the behavior of the cooperative non-selected respondents. Moreover, Grobest argues that it was also unreasonable to assign a zero calculated rate of one mandatory respondent to the non-selected respondents, resulting in reasonable method adopted by the Department. See Vietnam Shrimp AR1.

Department's Position:

In the instant review, pursuant to section 777A(c)(2) of the Act, the Department limited its examination to Vietnamese exporters and producers accounting for the largest volume of subject merchandise from the exporting country that can be reasonably examined.²⁸ Consequently, the Department selected two mandatory respondents in the instant review.²⁹ We also stated that “for those respondents not representing the largest volume of subject merchandise exported to the United States, the Department will make separate rate determinations for each company. Only those respondents with separate rate status will be included in the group receiving the weighted-average margin calculated from the selected respondents.” See Initiation Notice at 17100.

In the Preliminary Results, we preliminarily rescinded this administrative review for seven companies/entities, rescinded the review for five entities due to withdrawn review requests, and applied AFA to 35 companies/groups. See Preliminary Results. Additionally, the Department assigned a separate rate to 26 cooperative respondents not selected for individual examination.³⁰ In the Preliminary Results, we assigned a de minimis rate to the 26 SR Respondents based on the de minimis rates calculated for Minh Phu and Camimex.

We note that the statute and the Department's regulations do not directly address the establishment of a rate to be applied to individual companies not selected for examination where the Department limited its examination in an administrative review pursuant to section 777A(c)(2) of the Act. The Department's practice in this regard, in cases involving limited selection based on exporters accounting for the largest volumes of trade, has been to weight-average the rates for the selected companies excluding zero and de minimis rates and rates based entirely on AFA. Generally we

²⁸ See Notice of Initiation of Administrative Reviews of the Antidumping Duty Orders on Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam and the People's Republic of China 72 FR 17095 (April 6, 2007) (“Initiation Notice”).

²⁹ See Memorandum from James C. Doyle, Director, Office 9, Import Administration to Stephen J. Claeys, Deputy Assistant Secretary, Import Administration; 2006/2007 Antidumping Duty Administrative Review of Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Selection of Respondents, dated July 18, 2007.

³⁰ Although we stated in the Preliminary Results that 27 companies received a separate rate, two of the companies listed separately (Ngoc Sinh Private Enterprise and Ngoc Sinh Seafoods) are trade names of the same company. In actuality, 26 companies/groups have received a separate rate.

have looked to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation, for guidance when calculating the rate for respondents we did not examine in an administrative review. Section 735(c)(5)(A) of the Act instructs that we are not to calculate an all-others rate using any zero or de minimis margins or any margins based on total facts available. Section 735(c)(5)(B) of the Act also provides that, where all margins are zero, de minimis, or based on total facts available, we may use “any reasonable method” for assigning the rate to non-selected respondents. One method that section 735(c)(5)(B) of the Act contemplates as a possibility is “averaging the estimated weighted average dumping margins determined for the exporters and producers individually investigated.”

In this review, we have, in addition to Minh Phu and Camimex, 35 companies to which we assigned margins based on AFA. Based on the facts of this case, we determine that a reasonable method for determining the margin for the separate rate companies in this review is the average of the margins, other than those which are zero, de minimis, or based on total facts available, that we found for the most recent period in which there were such margins. While the statute contemplates that we may use an average of the zero, de minimis and total facts available rates determined in an investigation, we have available in this review information that would not be available in an investigation, namely rates from prior administrative and new shipper reviews. We have determined that it is more appropriate in this review to use a calculated rate from a previous segment as this method does not rely on zero, de minimis or facts available margins and there is no reason to find that it is not reasonably reflective of potential dumping margins for the non-selected companies. See SAA at 873.

Furthermore, in another case, the Department determined that it was appropriate to assign non-selected respondents eligible for a separate rate a margin based on the weighted average of the two zero and de minimis rates calculated for the two mandatory respondents because the companies in the industry were fairly homogenous in terms of economic characteristics and there was a preponderance of zero and de minimis margins calculated in prior segments. See Brake Rotors From the People’s Republic of China: Final Results of 2006-2007 Administrative and New Shipper Reviews and Partial Rescission of 2006-2007 Administrative Review 73 FR 32678 (June 10, 2008) (“Brake Rotors”) and accompanying Issues and Decision Memorandum at Comment 1. However, we note that in Brake Rotors and Honey from Argentina, no rates based entirely on AFA were assigned in the context of the limited examination review at issue.

Therefore, for these final results of this review, we have determined that, because the circumstances of this review are similar to those of the preceding review, a reasonable method is to assign the margin of 4.57 percent to the non-selected SR Respondents in the instant review with no calculated margin of their own. This is the margin calculated for cooperative separate rate respondents in the underlying investigation, and is reflective of the range of commercial behavior demonstrated by exporters of the subject merchandise during a very recent period. However, for those SR Respondents that received a calculated rate in a prior segment, we are assigning that calculated rate as the company’s non-selected, separate rate in this review. Specifically, for Fish-One and Grobest, we are assigning the rates most recently calculated for both companies (zero) as their non-selected, separate rate in the instant review because these rates are more recent than the non-selected, separate rate calculated in the LTFV and are based on the company’s own data. Additionally, for Minh Hai Joint-Stock Seafoods Processing Company aka Seaprodex

Minh Hai, we are assigning, as a non-selected, separate rate, the most recent calculated rate of 4.30 percent, from the LTFV, which was based on the company's own data. For all other SR Respondents in the instant review, the non-selected, separate rate is 4.57 percent.

Lastly, in its case brief, Fish-One has requested that the Department clarify the regulation governing the treatment of unreviewed intervening years leading to the revocation of an antidumping duty order. Fish-One argues that, because it received a calculated zero dumping margin in Vietnam Shrimp AR1, and it was not selected for individual review in the instant review, this review period should be treated as an unreviewed intervening year qualifying for revocation of the order under section 351.222(d) of the Department's regulations. We find that Fish-One's request for clarification is premature. The Department will determine the status of a claimed intervening year, if raised, in the context of a review in which revocation based on the absence of dumping is requested under section 351.222.

Comment 7: Separate-Rate Status for Additional Trade Names

One of the mandatory respondents, Camimex, and certain non-selected cooperative SR Respondents³¹ argue that the Department omitted additional trade names used by these companies that received separate-rate status in the Preliminary Results. Specifically, Camimex³², Cafatex³³, Seaprodex Danang³⁴, Minh Hai Jostoco³⁵, Fimex VN³⁶, and Vimex³⁷ contend that their separate-rate certifications all contain additional trade names used in prior segments and still relevant for this review period. Thus, Camimex and certain non-selected cooperative SR Respondents argue that those additional trade names identified in the separate-rate certifications as well as those used in prior segments should be included in the separate rate assigned to the respondent company.

Additionally, Stapimex³⁸ and UTXI³⁹ argue that the Department should include new trade names identified in their separate-rate certifications. Specifically, Stapimex and UTXI contend that

³¹ These companies are: Cafatex, Seaprodex Danang, Minh Hai Jostoco, Fimex VN, Vimex, Stapimex, UTXI, and Cataco.

³² The name at issue is Camau Seafood Factory No.5

³³ The names at issue are Cafatex Vietnam and Xi Nghiep Che Bien Thuy Suc San Xuat Khau Cantho.

³⁴ The name at issue is Tho Quang.

³⁵ The names at issue are Kien Cuong Seafood Processing Import Export Joint-Stock Company ("Kien Cuong"), Viet Cuong Seafood Processing Import Export Joint-Stock Company ("Viet Cuong"), Minh Hai Export Frozen Seafood Processing Joint-Stock Company ("Minh Hai Jostoco"), Minh Hai Export Frozen Seafood Processing Joint-Stock Company, Minh Hai Jostoco, Minh Hai Joint Stock Seafood Processing Joint-Stock Company, and Minh Hai Export Frozen Seafood Processing Joint-Stock Co.

³⁶ The name at issue is Sao Ta Seafood Factory.

³⁷ The name at issue is VIMEX.

³⁸ The name at issue is Soctrang Seafoods Joint Stock Company.

because they filed the separate-rate certifications identifying old trade names and new trade names that they have used, the separate rate granted to the respondent should apply to the old and new trade names.

Finally, Cataco argues that the Department should not have denied Cataco's separate-rate status to Caseamex, a shrimp processing branch of the company that was privatized and assumed the status as Cataco's successor-in-interest. Cataco claims that, in the Preliminary Results, the Department denied separate-rate status to Caseamex in the instant proceeding for the same reasons the Department denied a changed circumstance review request filed by Cataco outside the instant administrative review. Based on past successor-in-interest determinations made by the Department,⁴⁰ Cataco argues that the Department should be able to make the same successor-in-interest determination for it. Cataco also argues that all the information needed to rule on whether Caseamex should assume Cataco's separate-rate status was submitted on the record in Cataco's separate-rate certification dated April 23, 2007.

In rebuttal, Petitioner argues that separate rate status granted to Cafatex and Minh Hai Jostoco should be limited to those additional trade names identified in the separate-rate certifications. Specifically, Petitioner asserts that because two of the several trade names used by Cafatex were not expressly identified in the separate-rate certification, separate-rate status to those two trade names should not be granted.⁴¹ Additionally, Petitioner asserts that because one of the trade names used by Minh Hai Jostoco was not expressly identified in the separate-rate certification, separate-rate status to that trade name should not be granted.⁴²

Secondly, with respect to UTXI and Stapimex, Petitioner argues that the issue at hand is a material change in a company's legal status resulting in a new company with a new name that has not previously been granted a separate rate, rather than the omission of a trade name used by a company which received a separate rate in a prior segment.⁴³ Petitioner argues that neither UTXI nor Stapimex should receive a separate rate for the new company names because UTXI stated in its separate-rate certification that it changed from a limited liability company ("LLC") to a joint stock company ("JSC") in June 2006, and Stapimex stated in its separate-rate certification that it changed from a state-owned enterprise ("SOE") to a JSC in June 2006. Petitioner contends that these requests should be denied because a change in a company's legal status may only be recognized through a separate changed circumstance review, and cannot be assumed or asserted in the absence of a changed circumstance review finding.⁴⁴ Petitioner argues that a company cannot

³⁹ The names at issue are UTXI Aquatic Products Processing Corporation, Khanh Loi Seafood Factory, and Hoang Phuong Seafood Factory.

⁴⁰ See Certain SR Respondents' Case Brief dated May 8, 2008, at 8-10.

⁴¹ Cafatex Vietnam and Xi Nghiep Che Bien Thuy Suc San Xuat Khau Cantho.

⁴² Minh Hai Export Frozen Seafood Processing Joint-Stock Co.

⁴³ The new company names resulting from a change in corporate legal status identified in the separate-rate certifications are: UTXI Aquatic Products Processing Corporation and Soctrang Seafoods Joint Stock Company.

⁴⁴ Petitioner cites to Certain Frozen Fish Fillets from Vietnam: Notice of Initiation and Preliminary Results of

simply claim separate rate status based on a presumed successor-in-interest relationship that has not been properly reviewed by the Department. Petitioner argues that, consequently, the Department should deny separate-rate status to UTXI Aquatic Products Processing Corporation and Soctrang Seafoods Joint Stock Company because these companies have not: (1) submitted separate-rate applications for the new entity and, (2) undergone changed circumstance reviews to determine whether they are successors-in-interest to the legal entities that have been previously granted a separate rate by the Department.

Petitioner did not comment on the additional trade names at issue for Camimex, Seaprodex Danang, Fimex VN, and Vimex.

Department's Position:

We agree, in part, with Camimex and certain SR Respondents regarding additional trade names used by the companies which were granted a separate rate in the Preliminary Results. In the Preliminary Results, the Department did not list all the trade names associated with companies that submitted separate-rate certifications and were granted a separate rate in this administrative review. Consequently, for the final results, we will list all the additional trade names identified by Camimex, Seaprodex Danang, Fimex VN, and Vimex in their separate-rate certifications because these separate-rate respondents certified that the trade names provided in the separate-rates certification were the same trade names that were granted separate-rate status in the previous granting period (i.e., investigation or review).

Additionally, with respect to Cafatex, we determine that the additional trade names at issue, though not expressly listed in the separate-rates certification, were granted separate-rate status in a previous POR, which Cafatex also affirmed in its separate-rate certification. See Cafatex Separate-Rate Certification dated April 19, 2007, at 4. Consequently, we will list the additional trade names identified by Cafatex in its separate-rate certification because it certified that its trade names were the same trade names that were granted separate-rate status in a previous granting period (i.e., investigation or review).

Minh Hai Jostoco

With respect to Minh Hai Jostoco, the trade name at issue is Minh Hai Export Frozen Seafood Processing Joint-Stock Co., which is a secondary version of a trade name to which we granted separate-rate status in a previous granting period: Minh Hai Export Frozen Seafood Processing Joint-Stock Company. We note that the only difference between these two names is the word "Company" abbreviated to "Co." Here, we find that it is reasonable to grant Minh Hai Jostoco's separate-rate status to Minh Hai Export Frozen Seafood Processing Joint-Stock Co. as the trade name is the same as a trade name previously granted separate-rate status save for an abbreviation of the word "Company."

Minh Hai Jostoco has also argued that its separate rate should also be applied to two allegedly

Changed Circumstances Review 72 FR 46604 (August 21, 2007) and Notice of Initiation and Preliminary Results of Changed Circumstances Antidumping Duty Review: Stainless Steel Wire Rod from Italy 71 FR 13964 (March 20, 2006) as the appropriate forum for the Department to recognize a change in a company's legal status.

affiliated companies, Kien Cuong and Viet Cuong, first identified by Minh Hai Jostoco in the quantity and value questionnaire response. We note that Kien Cuong and Viet Cuong were not included in the separate rate certification as additional trade names.⁴⁵ Moreover, we note that Kien Cuong and Viet Cuong: (1) have not been granted separate-rate status in a previous granting period, and (2) do not appear on the business license submitted in Minh Hai Jostoco's separate-rates certification.⁴⁶ We find that Minh Hai Jostoco's argument that the Department should include Kien Cuong and Viet Cuong in Minh Hai Jostoco's separate-rate status as alleged affiliates is improper within the context of a separate-rate eligibility test conducted within the separate-rate certifications. Moreover, the record does not contain sufficient information with respect to Kien Cuong's and Viet Cuong's corporate and ownership structure to warrant affiliation or collapsing determinations under the provisions of section 351.401(f) of the Department's regulations and section 771(33) of the Act, respectively. See Minh Hai Jostoco's Quantity and Value Questionnaire Response dated April 23, 2007 at Attachment I.

Thus, the Department determines that it is inappropriate to grant separate-rate status to Kien Cuong and Viet Cuong under cover of Minh Hai Jostoco's separate-rate certification. However, for the final results, we will include the following trade names used by Minh Hai Jostoco to which we have granted separate-rate status: Minh Hai Export Frozen Seafood Processing Joint Stock Company aka Minh Hai Jostoco aka Minh Hai Export Frozen Seafood Processing Joint-Stock Company ("Minh Hai Jostoco") aka Minh Hai Export Frozen Seafood Processing Joint-Stock Company aka Minh Hai Joint Stock Seafood Processing Joint-Stock Company aka Minh Hai Export Frozen Seafood Processing Joint-Stock Co.

Stapimex and UTXI

We agree with Petitioner with respect to the separate-rate status for Stapimex's new company name, Soctrang Seafoods Joint Stock Company and UTXI's new company name, UTXI Aquatic Products Processing Corporation ("UTXICO").

In its separate-rate certification, Stapimex stated that "after becoming a joint-stock company, Stapimex's full name changed from Soctrang Aquatic Products And General Import Export

⁴⁵ We note that on June 22, 2007, Minh Hai Jostoco, outside of this administrative review, filed a changed circumstance review request in which it requested that the Department issue an expedited changed circumstance review and find that Minh Hai Jostoco and its affiliates Kien Cuong and Viet Cuong be treated as affiliated and collapsed (i.e., a single entity) for margin determination purposes. In a letter to counsel for Minh Hai Jostoco dated August 6, 2007, the Department stated that "'consistent with our practice, we will not consider whether to collapse Minh Hai and Kien Cuong and Viet Cuong within the context of a changed circumstances review because, within such a review, we do not determine an antidumping duty margin.'" See Stainless Steel Sheet and Strip in Coils from the Republic of Korea: Notice of Final Results of Changed Circumstances Antidumping Duty Administrative Review, 67 FR 43583 (June 28, 2002) and accompanying Issues and Decision Memorandum for the Changed Circumstances Review of Stainless Steel Sheet and Strip in Coils from the Republic of Korea, at Comment 1." See Memorandum to the File from Irene Gorelik, Analyst, re; 2006/2007 Antidumping Duty Administrative Review on Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam; Minh Hai Jostoco's Separate Rate Status to Trade Names, dated September 2, 2008.

⁴⁶ The Department's separate-rate certification clearly states that "the firm name provided to the Department in this Certification must be the name that appears on the firm's business license/registration documents." See e.g., Minh Hai Jostoco Separate-Rate Certification dated April 23, 2007 at 2.

Company to Soc Trang Seafoods Joint Stock Company. Stapimex began using this name as of June 1, 2006, which was the effective date of its new business registration.” See Stapimex’s Separate-Rate Certification dated April 19, 2007, at Attachment 2.

In its separate-rate certification, UTXI stated that “during the POR, UTXI changed from a limited liability company to a joint-stock company.” See UTXI’s Separate-Rate Certification dated April 20, 2007, at Attachment 2.

In an administrative review, in order to demonstrate separate-rate status eligibility, the Department normally requires entities, for which a review was requested, and which were assigned a separate rate in a previous segment of a proceeding, to submit a separate-rate certification stating that the entities continue to meet the criteria for obtaining a separate rate. Specifically, the Department stated that “in order to demonstrate separate rate eligibility, the Department requires companies for which a review was requested and who **currently have separate rates** status to certify that they **continue to meet the criteria** for obtaining a separate rate.” See Initiation Notice (emphasis added).

However, a separate-rate certification is not the proper forum for a company that experienced changes in legal status during a review period, notwithstanding its separate-rate status in a previous granting period, to demonstrate that the new entity is eligible for a rate separate from the Vietnam-Wide entity. That is, if the company experienced a change in legal status, it is no longer the same company in legal terms that had been granted a separate rate in a preceding segment. However, if Stapimex and UTXI had filed separate-rate applications for the new entities, the Department would have analyzed the new entities’ eligibility for a separate rate independent of a successor-in-interest determination. We further note that neither Stapimex nor UTXI filed a separate-rate application for the new companies operating under a new legal structure to provide information supporting a determination of their eligibility for a separate rate.

Moreover, the Department’s regulations provide companies that undergo company status changes the opportunity to request a changed circumstance review. Section 351.216(d) of the Department’s regulations under the provision of section 751(b) of the Act governing changed circumstance reviews states that the Department will conduct a changed circumstance review if it “decides that changed circumstances sufficient to warrant a review exist...” In changed circumstance reviews involving a successor-in-interest determination, the Department typically examines several factors including but not limited to: change in (1) management; (2) production facilities; (3) supplier relationships; and (4) customer base. See Certain Frozen Warmwater Shrimp from the People’s Republic of China: Notice of Initiation and Preliminary Results of Changed Circumstances Review, 72 FR 24273, 24274 (May 2, 2007) (unchanged in final results). We note that neither Stapimex nor UTXI filed a changed circumstance review request for the changes in legal structure that occurred during the review period.

Consequently, we will not grant either Stapimex or UTXI a separate rate inclusive of the new company names which, as explained by both companies, is a result of a change in legal structure. However, for the final results, we will correct the abbreviated spelling for the company name, which we initiated upon: Soc Trang Aquatic Products and General Import Export Company (“Stapimex”) aka Stapimex. Additionally, for the final results, we will continue to grant a

separate rate to UTXI Aquatic Products Processing Company aka Ut Xi Aquatic Products Processing Company aka Ut-Xi Aquatic Products Processing Company aka Utxi aka Utxi Co. Ltd. We will also include the trade names Khanh Loi Seafood Factory and Hoang Phuong Seafood Factory only under UTXI Aquatic Products Processing Company because UTXI's separate-rate certification contains business registration certificates for both Khanh Loi Seafood Factory and Hoang Phuong Seafood Factory as branch factories operating under UTXI Aquatic Products Processing Company, the name to which we have granted a separate rate in a previous granting period.

Cataco/Caseamex

We disagree with Cataco with respect to our determination in the Preliminary Results, whereby we denied Cataco's separate-rate status to Caseamex.

In the Preliminary Results, the Department did not grant Cataco's separate rate status to Cataco's newly privatized shrimp processing factory, Caseamex.⁴⁷ In a separate segment of the proceeding, the Department also denied a changed circumstance review request for Cataco and its alleged successor-in-interest, Caseamex. The Department had clearly explained the reasons for: (1) denying a changed circumstance review request and (2) not granting Caseamex separate-rate status under Cataco. See id.

While Cataco provided information to the Department within its changed circumstance review request, the only information available on the record of this administrative review is Cataco's separate-rate certification where it stated that "during the POR, Cataco's shrimp processing factory was privatized, creating a **new** company...". See Cataco's Separate Rate Certification dated April 23, 2007, at 3 (emphasis added). We also note that Caseamex had not been included as one of Cataco's trade names in previous granting periods.⁴⁸

As stated above, a separate-rate certification is not the proper forum for a company that experienced changes in legal status during a review period, notwithstanding its separate-rate status in a previous granting period, to demonstrate that the new entity is eligible for a rate separate from the Vietnam-Wide entity. That is, if the company experienced a change in legal status, it is no longer the same company in legal terms that had been granted a separate rate in a preceding segment. However, if Caseamex had filed a separate-rate application, the Department would have analyzed Caseamex's eligibility for a separate rate independent of a successor-in-interest determination.

⁴⁷ See Memorandum to the File from Irene Gorelik, Analyst, Office 9: 2006/2007 Antidumping Duty Administrative Review on Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam; Cataco's Separate Rate, dated February 28, 2008.

⁴⁸ See Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp From the Socialist Republic of Vietnam 69 FR 71005 (December 8, 2004) at 71009-10 (where the Department listed Cataco's trade names under Cataco's SR status).

Although Cataco applied for a changed circumstance review, it was ultimately denied by the Department under the provision of section 351.216(d) of the Department's regulations and section 751(b) of the Act governing changed circumstance reviews which state that the Department will conduct a changed circumstance review if it "decides that changed circumstances sufficient to warrant a review exist..." Therefore, no successor-in-interest has been determined for Cataco's newly privatized shrimp processing factory, Caseamex.

We find that Cataco's arguments regarding the Department's denial of a changed circumstance review are improper within the context of this administrative review. The record of this review contains: (1) Cataco's separate-rate certification, which we have already noted is not the proper forum to discuss legal company status changes with respect to separate-rate eligibility, and (2) the Department's letter to Cataco denying a changed circumstance review. Although Cataco cites to cases where the Department has granted successor-in-interest status, those determinations were made within the confines of a changed circumstance review and not based solely on narrative information contained within the quantity and value questionnaire response or separate-rate certification, which is intended for a company to demonstrate its continued separate-rate eligibility based on the previous granting period.⁴⁹

Therefore, we continue to find that Caseamex does not qualify for Cataco's separate-rate status, as Cataco has only provided a separate-rate certification demonstrating its continued eligibility for a separate rate based on its company status from the previous granting period.

Comment 8: Minh Phu Group's Importer-Specific Assessment Error

Minh Phu Group argues that the Department made an error in the margin calculation programming language in the Preliminary Results with respect to the calculation of importer-specific assessment rates.

Petitioner did not comment on this issue.

Department's Position:

We agree with Minh Phu Group with respect to the calculation of the importer-specific assessment rate calculation in the margin calculation program. We have corrected this for the final results. See Memorandum to the File through Catherine Bertrand, Program Manager, Office 9, from Irene Gorelik, Senior Analyst, Office 9; Administrative Review of Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Analysis for the Final Results of Minh Phu Group.

⁴⁹ Cataco cites to Wooden Bedroom Furniture from the People's Republic of China: Preliminary Results of Antidumping Duty Changed Circumstances Review 72 FR 41492 (July 30, 2007) and Wooden Bedroom Furniture From the People's Republic of China: Final Results of Antidumping Duty Changed Circumstances Review 72 FR 60812 (October 26, 2007).

RECOMMENDATION:

Based on our analysis of the comments received, we recommend adopting all of the above changes and positions, and adjusting the margin calculation programs accordingly. If accepted, we will publish the final results of this review and the final weighted-average dumping margins in the Federal Register.

AGREE_____

DISAGREE_____

David M. Spooner
Assistant Secretary
for Import Administration

Date